



Naveena Sadasivam <nsadasivam@grist.org>

Coal ash and mine reclamation

Brian McGovern <Brian.McGovern@tceq.texas.gov>
To: Naveena Sadasivam <nsadasivam@grist.org>

Thu, Aug 22, 2019 at 10:45 AM

Naveena,

1. The disposal of coal ash at power plants in Texas is regulated through the requirements found in 30 Texas Administrative Code 335, Industrial Solid Waste and Municipal Hazardous Waste. Mine reclamation (backfilling the pit) is under the RRC jurisdiction.

2. TCEQ determined, with information provided by San Miguel Electric Cooperative Inc., that the use of coal combustion products used as backfill material in the reclamation process at this facility met the requirements to be exempt from the definition of solid waste under 30 TAC 335.1(138)H. The exemption requirements referenced in the letter as being under 30 TAC 335.1(138)H are currently found under 30 TAC 335.1(146)H.

3. The TCEQ is developing a rule and program for the regulation of coal combustion residuals that will meet the federal standards in 40 CFR Part 257. After Texas adopts a final rule for the regulation of coal combustion residuals, then Texas may apply for delegation of the federal CCR program.

4. San Miguel Electric Cooperative notified the TCEQ on Mar. 12, 2019 of groundwater exceedance above state action levels. In response to the notification, TCEQ issued a Mar. 22, 2019 letter to SMEC directing them to determine the nature and extent of groundwater contamination. On Mar. 22, 2019 TCEQ issued letters to 16 coal combustion residuals facilities describing the obligation to comply with applicable state environmental rule and law. TCEQ is reviewing information that the facilities have been providing.

Brian McGovern

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From: Naveena Sadasivam <nsadasivam@grist.org>
Sent: Thursday, August 15, 2019 6:22 PM
To: Brian McGovern <Brian.McGovern@Tceq.Texas.Gov>
Subject: Fwd: Coal ash and mine reclamation

Hi Brian,

I reached out to Marty and it looks like she's out of the office the next couple of days. I wanted to flag my email below. My deadline is August 21st. Thanks.

Best,

Naveena

----- Forwarded message -----

From: **Naveena Sadasivam** <nsadasivam@grist.org>

Date: Thu, Aug 15, 2019 at 4:10 PM

Subject: Coal ash and mine reclamation

To: Martha Otero <Martha.Otero@tceq.texas.gov>

Hi Marty,

I have a few more questions about coal ash disposal. This is for a story about coal mine reclamation in Texas that I've been working on with Kiah Collier at The Texas Tribune. The story covers three mines, including Luminant's Thermo mine in Sulphur Springs, San Miguel's mine in Atascosa County and Alcoa's Sandow mine in Rockdale.

The main thrust of the piece is that mining companies have been electing to use post mine land use standards that are easier to achieve in an attempt to lower cleanup costs. Most of the story is about the Railroad Commission's role in overseeing clean up at mines, but there are a few instances where TCEQ is mentioned. My questions are below and my deadline is EOD August 21st.

1. Coal ash jurisdiction

1. Who has primary jurisdiction over regulating coal ash in Texas? Is it TCEQ or RRC?
2. Are there ways in which TCEQ and RRC's jurisdictions overlap on coal ash regulation? For instance, which agency is responsible when coal ash is used at a mine as backfill during the reclamation process?

2. In 2014, TCEQ issued a letter to San Miguel Electric Cooperative finding that fly ash and scrubber sludge generated at its coal plant are excluded from being a "solid waste" as defined under 30 TAC Section 335.1 (138) (H).

1. Why did TCEQ make this determination?
2. Fly ash is a type of coal ash and it contains toxic heavy metals such as lead, mercury, arsenic and lithium. Does the agency feel confident these metals won't contaminate groundwater?
3. Did TCEQ require San Miguel to take any mitigation efforts to reduce risks to the environment and public health before issuing the letter?
4. Has TCEQ issued a similar letter for any other mines?

3. In a previous statement, the agency said it is working on a rule to create a program for coal ash management.

1. Do you have a timeline for rolling out the program?
2. To what extent are TCEQ's rules going to be influenced by the Trump administration's roll back of coal ash regulations?
3. The federal rules are facing legal challenges. Is it fair to say TCEQ is waiting to see how the legal challenges fare before announcing its state program?

4. After a report from the Environmental Integrity Project found contaminated groundwater near 16 coal plants, TCEQ required San Miguel to enroll in the Texas Risk Reduction Program.

1. What does the program require San Miguel to do? Are you requiring the company to clean up the contamination?
2. Groundwater wells around the AX landfill at Sandow mine in Rockdale also have elevated levels of toxic metals. Plans to build the landfill were approved by TCEQ. What are the agency's plans to address leachate from the landfill?

3. Have any other companies mentioned in the EIP report enrolled in TRRP? If so, please provide a list of names.

Best,

Naveena Sadasivam

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